

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

GREG HUBLER and LYNN HUBLER, *
legal guardians of GLT, *

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 13-52V

Special Master Christian J. Moran

Filed: December 2, 2013

Attorneys' fees and costs;
award in the amount to which
respondent does not object.

Clifford J. Shoemaker, Shoemaker, Gentry & Knickelbein, Vienna, VA, for petitioners;
Althea W. Davis, United States Dep't of Justice, Washington, DC, for respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

On November 26, 2013, respondent filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Petitioner filed an application for attorneys' fees and costs ("Application") on November 10, 2013. Upon review of petitioner's Application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended her application to request a total of \$5,962.30, an amount to which respondent does not object. The Court awards this amount.

On January 22, 2013, Greg and Lynn Hubler filed a petition for compensation alleging that their granddaughter, GLT, "received various childhood vaccinations during the first six months of her life and developed seizures and severe neurological injury." Petitioners determined that they were unable to prove their entitlement to compensation and thus, filed a motion seeking a ruling on the record. In this ruling, compensation was denied. Decision, dated May 13, 2013.

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Even though compensation was denied, a petitioner who brings her petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioners spent time gathering medical records until counsel realized that proof of causation was lacking and the case could not proceed. At this point, counsel took steps to resolve this case relatively quickly so as not to increase costs and expenses unnecessarily. Thus, because petitioners' counsel acted in good faith and there was a reasonable basis for proceeding, petitioners are eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioners failed to satisfy these criteria.

Petitioners seek a total of **\$5,956.50** in attorneys' fees and costs for their counsel. Additionally, in compliance with General Order No. 9, petitioners state that they incurred out-of-pocket litigation expenses of **\$5.80** while pursuing this claim. Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

- 1. A lump sum of \$5,956.50 in the form of a check made payable to petitioner and petitioner's attorney, Clifford J. Shoemaker of the law firm Shoemaker, Gentry & Knickelbein, for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**
- 2. A lump sum payment of \$5.80 in the form of a check payable to petitioners, Greg and Lynn Hubler.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.²

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.